

# Exhibit C

W&S Draft  
2/5/09

## CUSTODY AGREEMENT

This CUSTODY AGREEMENT dated as of February 1, 2009, by and between THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as custodian (the "*Custodian*") and STATE STREET BANK AND TRUST COMPANY (the "*Bank*").

WHEREAS, the City of Austin, Texas (the "*Issuer*") and the Bank have entered into that certain Letter of Credit and Reimbursement Agreement dated as of February 1, 2009 (as amended and supplemented from time to time, the "*Agreement*"), pursuant to which the Bank has agreed to issue its irrevocable direct-pay letter of credit (the "*Letter of Credit*") in support of the \$28,000,000 City of Austin, Texas Airport System Variable Rate Revenue Notes, Series A (the "*Notes*") issued by the Issuer; and

WHEREAS, the Notes were issued pursuant to that certain Ordinance No. 950817-B on August 17, 1995 (as amended by the Ordinance No. 98-0205-A adopted on February 5, 1998, the "*Ordinance*") adopted by the Issuer; and

WHEREAS, the Ordinance requires that the Notes delivered by the holders thereof to the Paying Agent/Registrar (as defined in the Ordinance) pursuant to the Ordinance be purchased under certain circumstances by the Bank under the Agreement; and

WHEREAS, it is a condition to the effectiveness of the obligations of the Bank under the Agreement that the Custodian shall have entered into this Custody Agreement with the Bank; and

WHEREAS, the Custodian has agreed to act as custodian and agent for the Bank, as herein provided;

NOW THEREFORE, in consideration of the mutual covenants recited herein, and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

- (a) The Bank appoints the Custodian as its agent and bailee for the purpose of receiving Bank Notes (as defined in the Agreement) under the Agreement and holding such Bank Notes for and on behalf of the Bank. Bank Notes shall be held and registered as provided in Section 2.03 of the Agreement. The Custodian hereby agrees to hold the Bank Notes for such purpose, as the Bank's agent and bailee. As used herein, the term "*Bank Notes*" means, unless the context otherwise requires, the beneficial ownership of such Bank Notes during any period that Bank Notes are maintained as Book Entry Notes.
- (b) Upon the Bank honoring any Liquidity Drawing, the Bank shall be purchasing the Notes in respect of which such drawing is made, and so long as such Notes are issued in book-entry form and held by the Custodian as custodian of DTC as part of DTC's fast automated transfer program ("*FAST Eligible Bonds*"), concurrently with the Paying Agent/Registrar's receipt of the purchase price for each purchase of Notes by the Bank under the Agreement, the Custodian, as a participant of DTC (or any other successor securities depository) or an eligible transfer agent,

shall make a direct registration electronic book-entry (A) crediting the DTC account designated by the Bank as its account in which to hold Bank Notes purchased by it (each, the "*Bank Book-Entry Account*") by the principal amount of the Notes purchased by the Bank using the Bank Bond CUSIP number for such Notes set forth below; and (B) debiting the book-entry account of DTC for the Notes (thereby reducing the principal balance of the global certificate representing the Notes) (the "*DTC Book-Entry Account*") by the principal amount of the Notes purchased by the Bank. The CUSIP number for the Notes that are Bank Notes is \_\_\_\_\_. So long as the Notes are FAST Eligible Bonds, upon a remarketing of Bank Notes in accordance with the terms of this Agreement and the Paying Agent/Registrar's receipt from the Remarketing Agent and/or the Issuer of the remarketing proceeds thereof, the Custodian, as a participant of DTC (or any other successor securities depository) or an eligible transfer agent, shall make a direct registration electronic book-entry in its records (A) debiting the Bank Book-Entry Account of the Bank by the principal amount of the Notes so remarketed; and (B) crediting the DTC Book-Entry Account for such Notes (thereby increasing the principal balance of the global certificate representing such Notes) by the principal amount of the Notes so remarketed. The Custodian acknowledges that it is familiar with the procedures and requirements set forth in a notice from The Depository Trust Company, dated April 4, 2008, respecting "Variable Rate Demand Obligations ("VRDO") Failed Remarketings and Issuance of Bank Bonds", and agrees that, with respect to any and all Bank Notes, it will follow the procedures and requirements set forth in such notice, as the same may be amended from time to time. To the extent that, following any amendment of such notice, the procedures and requirements therein should become inconsistent with any aspect of the preceding provisions, the Paying Agent, the Issuer and the Bank shall promptly negotiate in good faith and agree upon amendments of the preceding provisions so as to eliminate such inconsistency.

- (c) If the Notes are no longer FAST Eligible Bonds, concurrently with the Paying Agent/Registrar's receipt of the purchase price for the Notes by the Bank, the Custodian shall cause each Bank Note to be registered in the name of the Bank and shall be held by the Paying Agent as the agent, bailee and custodian of the Bank for the exclusive benefit of the Bank. The Custodian acknowledges and agrees that it is acting and will act with respect to Bank Notes at the direction of the Bank for the exclusive benefit of the Bank and is not and shall not at any time be subject in any manner or to any extent to the direction or control of the Issuer or any other Person with respect to the Notes. The Custodian agrees to act in strict accordance with this Custody Agreement and in accordance with any lawful written instructions delivered to the Custodian from time to time pursuant hereto by the Bank. Under no circumstances shall the Custodian deliver possession of the Notes to, or cause Notes to be registered in the name of, the Issuer, the Remarketing Agent or any Person other than the Bank except in accordance with the express terms of this Custody Agreement or otherwise upon the written instructions of the Bank. If, while this Custody Agreement is in effect, the Custodian shall become entitled to receive or shall receive any payment in respect of any Bank Notes held for the Bank, the Custodian agrees to accept the same as

the Bank's agent and to hold the same in trust on behalf of the Bank and to deliver the same forthwith to the Payment Office of the Bank. Upon the remarketing of any Bank Notes and the Paying Agent's receipt from the Remarketing Agent and/or the Issuer of the remarketing proceeds thereof, the Custodian shall release Bank Notes in a principal amount equal to the principal amount so remarketed to the Remarketing Agent for such Notes or the Issuer, as the case may be, in accordance with the terms of the Ordinance. The Custodian may rely and shall be protected in acting upon any document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Custodian shall not be liable for any error in judgment made in good faith by its responsible officers, employees and agents unless the Custodian, its responsible officers, employees or agents were negligent or engaged in willful misconduct. Anything herein to the contrary notwithstanding, the Custodian shall have no liability hereunder for any act or omission except as shall result from its gross negligence or willful misconduct. Except as provided above, without the prior written consent of the Bank for whom the Custodian is holding Bank Notes, the Custodian agrees that it will not sell, assign, transfer, exchange or otherwise dispose of, or grant any option with respect to, Bank Notes, and will not create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance or take any other action with respect to the Bank Notes, or any interest therein, or any proceeds thereof. The Custodian shall deliver to the Bank at the Bank's request such information as may be in the possession of the Custodian with respect to such Bank Notes. If the Custodian is holding Bank Notes, the Custodian, at its own expense, shall maintain and keep in full force and effect: fidelity insurance; theft of documents insurance; forgery insurance; and errors and omissions insurance (which may be maintained by self-insurance). All such insurance shall be in amounts, with standard coverage and subject to deductibles that are customary for insurance typically maintained by a bank or other financial institution acting as custodian.

- (d) Except at the written direction of the Bank, the Custodian shall not pledge, hypothecate, transfer or release possession of such Bank Notes held by or registered in the name of the Custodian on behalf of the Bank to any Person or in any manner not in accordance with this Custody Agreement and shall not enter into any other agreement, other than the Agreement or the Ordinance, regarding possession of the Bank Notes without the prior written consent of the Bank. Unless otherwise agreed to in writing by the Bank, the Custodian will not release Bank Notes to the purchaser of such Bank Notes unless the Bank has delivered to the Custodian, in addition to its written direction contemplated above in this paragraph, written notice (which may be by telex, answerback received) that a portion of the Letter of Credit Amount Principal Component (as defined in the Letter of Credit) in an amount equal to the principal amount of such Bank Notes has been reinstated.
- (e) Upon written notice to the Bank, and release and delivery to the Bank or its designee of any Bank Notes then held by the Custodian on behalf of the Bank pursuant to this Custody Agreement, the Custodian shall have the right to

terminate its obligations with respect to such Bank Notes under this Custody Agreement. The Bank shall have the option to terminate this Custody Agreement at any time upon written notice to the Custodian and, upon such termination, the Custodian will release and deliver to the Bank or its designee any Bank Notes then held by the Custodian hereunder. The Bank may also from time to time request that the Custodian release and deliver to the Bank all or a portion of the Bank Notes then held by the Custodian on behalf of the Bank without termination of this Custody Agreement, and upon receipt of any such request in writing, the Custodian will release and deliver such Bank Notes to the Bank or its designee then held by the Custodian.

- (f) In acting under this Custody Agreement the Custodian shall not be liable to the Bank except for gross negligence or willful misconduct in the performance of its obligations hereunder.
- (g) The Custodian's duties are only such as are specifically provided herein, and the Custodian shall incur no fiduciary or other liability whatsoever to the Bank or any other Person, except to the extent the Bank incurs any loss or liability due to the Custodian's gross negligence or willful misconduct. Anything in this Custody Agreement to the contrary notwithstanding, in no event shall the Custodian be liable for special, indirect or consequential loss or damage of any kind. The Custodian may consult with counsel and shall be fully protected in any action taken, suffered or omitted in good faith in accordance with such advice. The Custodian may rely conclusively and shall be fully protected in acting upon any written instructions given to it hereunder and believed by it to have been properly executed.
- (h) The Custodian may resign at any time by giving written notice thereof to the Bank. Such resignation shall not become effective until a successor Custodian shall have been appointed by the Bank and shall have accepted such appointment in writing. The resigning Custodian may, at the expense of the Issuer, petition any court of competent jurisdiction, including without limitation, the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, for the appointment of a successor Custodian.
- (i) This Custody Agreement cannot be amended or modified except in a writing signed by the Bank and the Custodian.
- (j) This Custody Agreement shall inure to the benefit of and shall be binding upon the Custodian and the Bank, and their respective successors and assigns.
- (k) THIS IS THE CUSTODY AGREEMENT REFERRED TO IN THE AGREEMENT, AND SHALL BE DEEMED TO BE A CONTRACT UNDER, AND FOR ALL PURPOSES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

- (l) This Custody Agreement may be executed in counterparts which, taken together, shall constitute a single document.

[signature page immediately follows]

IN WITNESS WHEREOF, the parties have hereunder set their hands, all as of the date first above written.

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Custodian

By: \_\_\_\_\_  
Name:  
Title:

STATE STREET BANK AND TRUST  
COMPANY, as the Bank

By: \_\_\_\_\_  
Name:  
Title: